

# Fair Labor Standards Act

Presented by the  
U.S. Department of Labor  
Wage and Hour Division



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# Major Provisions

- Coverage
- Minimum Wage
- Overtime Pay
- Youth Employment
- Recordkeeping



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# FLSA Requirements

- Payment of minimum wage (29 CFR Part 531)
- Overtime pay for time worked over 40 hours in a workweek (29 CFR Part 778)
- Recordkeeping (29 CFR Part 516)
- Exceptions and Exemptions (29 CFR Parts 525 & 541)



# Employment Relationship

In order for the FLSA to apply, there must be an employment relationship between the “employer” and the “employee”



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# Coverage



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# Enterprise Coverage

- Enterprises with
  - At least two (2) employees
  - At least \$500,000 a year in business
- Hospitals, businesses providing medical or nursing care for residents, schools, preschools and government agencies (federal, state, and local)



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# Minimum Wage



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# Deductions

- Deductions from pay illegal if:
  - Deduction is for item considered primarily for the benefit or convenience of the employer; and
  - The deduction reduces employee's earnings below required minimum wage
- Examples of illegal deductions
  - Tools used for work
  - Damages to employer's property
  - Cash register shortages





# Overtime



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# Overtime Pay

Covered, non-exempt employees must receive one and one-half times the regular rate of pay for all hours worked over forty in a workweek



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# Workweek

- Compliance is determined by workweek, and each workweek stands by itself
- Workweek is 7 consecutive 24 hour periods (168 hours)



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# Exemptions and Exceptions

There are numerous exemptions and exceptions from the minimum wage and/or overtime standards of the FLSA



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# Recordkeeping

An accurate record of the hours worked each day and total hours worked each week is critical to avoiding compliance problems



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# Common Errors to Avoid



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# Common Errors to Avoid

- Assuming that all employees paid a salary are not due overtime
- Improperly applying an exemption
- Failing to pay for all hours an employee is “suffered or permitted” to work
- Limiting the number of hours employees are allowed to record



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# Common Errors to Avoid

- Failing to include all pay required to be included in calculating the regular rate for overtime
- Failing to add all hours worked in separate establishments for the same employer when calculating overtime due





# Common Errors to Avoid

- Making improper deductions from wages that cut into the required minimum wage or overtime. Examples: shortages, drive-offs, damage, tools, and uniforms
- Treating an employee as an independent contractor
- Confusing Federal law and State law



# Compliance Assistance Materials - FLSA

- The Law
- The Regulations ( 29 C.F.R. Part 500-899)
- Interpretive Guidance (opinion letters, field operations handbook, and field bulletins)
- FLSA Poster
- Handy Reference Guide
- Fact Sheets
- Information for New Businesses
- Department of Labor Home Page



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# Additional Information

- Visit the WHD homepage at:  
[www.wagehour.dol.gov](http://www.wagehour.dol.gov)
- Call the WHD toll-free information and helpline at  
1-866-4US-WAGE (1-866-487-9243)
- Use the DOL interactive advisor system - *ELAWS*  
(Employment Laws Assistance for Workers and  
Small Businesses) at: [www.dol.gov/elaws](http://www.dol.gov/elaws)
- Call or visit the nearest Wage and Hour Division  
Office



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# Coverage of the DBA

- Applies to contracts in excess of \$2,000 to which the Federal Government or the District of Columbia is a party for construction, alteration, and/or repair, including painting and decorating, of public buildings or public works.



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# DBA Requirements

- Applies to “laborers” and “mechanics” of contractors and subcontractors
- Performing work on the “site of the work”
- Must be paid not less often than weekly
- Wage scale must be posted at the job site



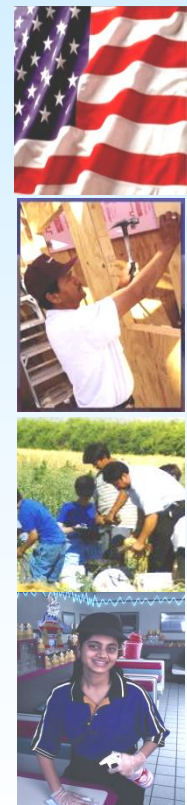
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# DBA/DBRA

## Compliance Principles

- Laborers and mechanics
- Site of the work
- Truck drivers
- Apprentices Trainees & Helpers
- Area Practice
- Fringe Benefits
- Federal contracts: PCA interaction with DBA
- Computing overtime pay



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# **McNamara-O'Hara Service Contract Act**

## **(SCA)**



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# Elements of SCA Coverage (29 C.F.R. 4.107, 4.108 & 4.110)

- Contracts entered into by Federal Government and District of Columbia
- Contracts principally for services
- Contracts performed in the U.S.
- Contracts performed through the use of service employees



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# Contracts to Furnish Services (29 C.F.R. 4.111 & 4.130)

- Examples of service contracts:
  - Security and guard services
  - Janitorial services
  - Cafeteria and food services
  - Support services at Federal installations



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# Use of “service employees” (29 C.F.R. 4.113)

- Section 8(b) of SCA defines service employee as:
  - Any person engaged in performance of contract, except
  - Employees who qualify for exemption as ***bona fide*** executive, administrative or professional employees under the FLSA (29 C.F.R. Part 541)
- Employee coverage does not depend on contractual relationship (29 C.F.R. 4.155)



# SCA Compliance Principles

- Payment of wages and fringe benefits
- *Bona fide* Fringe Benefit Plans
- Health & Welfare Fringe Benefits
- Paid Vacation Fringe Benefits
- Paid Holiday Fringe Benefits
- Equivalent Fringe Benefits
- Temporary & Part-time employment



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# Internet Sites

- Wage Determinations – <http://www.wdol.gov>
- Wage and Hour Division - <http://www.dol.gov/whd/index.htm>
- Office of the Administrative Law Judges Law Library - <http://www.oalj.dol.gov>
- Administrative Review Board - <http://www.dol.gov/arb>
- Debarred Bidders List - <http://www.epls.gov>



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# Code of Federal Regulations

## 29 CFR Part

- 1 - Procedures for Predetermination of Wage Rates under the Davis-Bacon Act
- 3 - Payment & Reporting of Wages on Federal Construction Contracts
- 4 - Federal Service Contracts
- 5 - Labor Standards Provisions Applicable to Federal Construction Contracts
- 6 - Rules of Practice for Administrative Proceedings



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# Code of Federal Regulations

## 29 CFR Part

7 & 8 - Rules for DBA/SCA appeals before the ARB

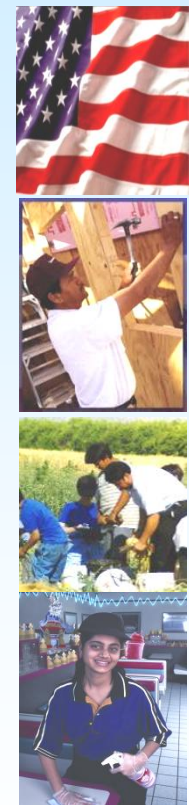
525 - FLSA (Workers with Disabilities)

531 - FLSA (Credit for tips, meals, & lodging)

541 - FLSA (Exempt - Salaried employees)

778 - FLSA (Overtime)

785 - FLSA (Hours Worked)



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